

**CITY AND COUNTY OF HONOLULU
DEPARTMENT OF CUSTOMER SERVICE
BUSINESS LICENSE – SPECIAL SERVICES SECTION
P.O. BOX 30350
HONOLULU, HAWAII 96820
PH: 768-2540**

PEPPER SPRAY

Please resubmit with the following items:

- **Signed** Application for Business, Professional, Occupational License form (CS-L(SS)30). Do not complete form. Only signature is required on this form.
- Completed Business License Information worksheet/ Signed Acknowledgement of receipt
- License/Permit fee \$25.00
Check or money order payable to the City and County of Honolulu.

*Do not return the *BRIEFING PRIOR TO THE SALE OF PEPPER SPRAY* form. This is for your records.*

Business License- Information Worksheet

Name of Applicant: _____

Name of Business: _____

Business Address: _____

Mailing Address: _____
(if different from business address)

Business phone number: _____

Type of Business: _____

Type of Ownership:

_____ Sole Proprietorship

_____ Partnership (list partners)

_____ Corporation

_____ LLC

Name of Corporation: _____

ACKNOWLEDGEMENT OF RECEIPT

I, the undersigned, hereby acknowledge receipt of the form, "Briefing Prior To The Sale of Pepper Spray."

I understand the usage of the form pursuant to Section 41, Revised Ordinances of Honolulu.

I also understand that the licensee shall be responsible for the legal sale, distribution and proper storage of any pepper spray under the licensee's control or at any of the licensee's designated place of business.

Signature: _____

Name of Distributor: _____

Date: _____ Time: _____

*Department of Customer Service
City and County of Honolulu
Division of Motor Vehicles/ Licensing and Permits
Business License Section*

BRIEFING PRIOR TO THE SALE OF PEPPER SPRAY

Acknowledgement is hereby given by _____
Name of Seller or Distributor

that _____ has been given a briefing on
Name of Purchaser

*the following subject pursuant to Section 41, Revised Ordinance of
Honolulu:*

- 1. The proper and safe use of the spray;*
- 2. The shelf life of the spray;*
- 3. The proper disposal of the spray;*
- 4. First-aid or medical remedies for people who come in
contact with the spray; and*
- 5. Current information regarding the effectiveness and
limitations of the spray.*

Signed: _____
Purchaser of Pepper Spray

Date: _____ Time: _____

Article 37. Possession, Use, and Sale of Pepper Sprays for Self-Defense

Sections:

41-37.1 Definitions. 41-37.2 Exceptions. 41-37.3 Restrictions on possession, sale, and use of pepper sprays.

41-37.4 License to distribute--Application and requirements.

41-37.5 Conditions of license.

41-37.6 Suspension or revocation of license.

41-37.7 Forfeiture. 41-37.8 Rules.

41-37.9 Violation--Penalty.

Sec. 41-37.1 Definitions.

"Adult" means any natural person other than a minor.

"Chief of police" means the chief of police of the City and County of Honolulu or the chief of police's authorized subordinate.

"Chemical device" means any aerosol container or other device that is capable of emitting chloroacetaphenone (CN), orthochlorobenzalmalonitrile (CS), or oleoresin capsicum (OC), or any combination or derivative thereof, in a vapor or liquid form.

"Controlled substance" means the same as defined in HRS Section 329-1.

"Department" means the Honolulu police department.

"Designated place of business" means a fixed place of business owned or leased by a licensee and designated by the licensee in its application under Section 41-37.4 as a place where it desires to sell or otherwise distribute pepper spray on a regular basis. "Designated place of business" does not include any temporary space rented or leased by a licensee at a swap meet, open market or other similar setting.

"Licensee" means any person who has obtained, pursuant to Section 41-37.4, a license to sell, transport or otherwise distribute pepper sprays in the city.

"Minor" means any natural person below the age of 18 years.

"Pepper spray" means any aerosol container or other device designed to fit into a handbag or a pants pocket and has a trigger-guard, flip top or other mechanism to prevent the accidental release of the spray, that: (1) is capable of emitting oleoresin capsicum (OC), or any derivative thereof, in a vapor or liquid form; (2) contains only the chemical substance oleoresin capsicum, or any derivative thereof, without containing chloroacetaphenone (CN) or orthochlorobenzalmalonitrile (CS); and (3) contains a non-flammable propellant and/or carrier.

"Person" means the same as defined in Section 41-25.1.

(Added by Ord. 95-49)

Sec. 4137.2 Exceptions.

This article shall not apply to persons authorized under Sections 40-2.4 and 40-2.7 to possess, use, sell, transport, or otherwise distribute chemical devices in the city; provided that the persons possess, use, sell, transport or otherwise distribute the chemical devices while acting in their capacities as employees of the city, of private security agencies, and of other organizations, or as licensed vendors, all in accordance with Chapter 40, Article 2. (Added by Ord. 95-49)

Sec. 4137.3 Restrictions on possession, sale, and use of pepper sprays.

(a) It is unlawful for any person to use any pepper spray for any purpose except:

- (1) Self-defense;
- (2) Defense of another person; or
- (3) Protection of property of the person or of another person.

(b) It is unlawful for any person to sell or offer for sale any pepper spray in the city without a license obtained pursuant to Section 41-37.4.

(c) It is unlawful for any person to sell, offer for sale or otherwise furnish any pepper spray to a minor in the city.

(d) It is unlawful for a minor to purchase, possess or use any pepper spray in the city.

(e) It is unlawful to sell or offer for sale any pepper spray on premises where liquor or alcoholic beverages are consumed.

(f) It is unlawful for any person to alter the manufacturer's name on any pepper spray to be carried or used in the city.

(Added by Ord. 95-49)

Sec. 41-37.4 License to distribute--Application and requirements.

(a) Any person desiring to sell or offer for sale any pepper spray in the city may apply for a license using forms prescribed by the director of finance. The application shall set forth the name and location of the principal place of business of the licensee and, if applicable, each additional designated place of business at which the licensee desires to sell pepper spray on a regular basis.

(b) Upon receipt of the completed form and the fee established in subsection (f), the director of finance shall issue a license and, if requested, certified copies thereof to the applicant.

(c) Prior to making a sale of or otherwise distributing pepper spray, the licensee shall provide a point-of-sale briefing that includes, but is not limited to, the following:

(1) The proper and safe use of the spray;

(2) The shelf life of the spray;

(3) The proper disposal of the spray;

(4) First-aid or medical remedies for people who come in contact with the spray; and

(5) Current information regarding the effectiveness and limitations of the spray. After giving the briefing, and prior to the sale or distribution of the pepper spray, the licensee shall obtain a signed acknowledgement from the purchaser or other recipient acknowledging that they have received the briefing. The acknowledgement shall be on a form provided by the department of finance or a copy thereof.

(d) The license or a certified copy thereof shall be posted at each designated place of business during any hours when pepper spray is being sold or offered for sale.

(e) No license shall be issued to a minor.

(f) The annual fee for a license under this section shall be \$25.00 for the principal place of business of the licensee and shall be \$25.00 for each additional designated place of business of the licensee, which shall be payable to the director of finance. The license shall be provided by the director of finance for the principal place of business and, if applicable, a certified copy of the license shall be provided for each additional designated place of business.

(Added by Ord. 95-49; Am. Ord. 96-77)

Sec. 41-37.5 Conditions of license.

(a) The licensee's books and records for the licensee's inventory shall be subject to inspection by the department at reasonable times during normal business hours. In addition to the records required to be kept under subsection

(b), the licensee shall keep a record of the licensee's purchases, sales and other acquisitions and distributions of pepper sprays as well as a record of the licensee's current inventory of pepper sprays.

(b) The licensee shall keep records of pepper sprays sold or otherwise distributed by the licensee in the city for a minimum of five years from the date of sale or other distribution. The records kept shall include:

(1) The recipient's name, date of birth and address;

(2) The quantity and description of the pepper spray distributed, including the name of the manufacturer;

(3) If applicable, the business name, address, telephone number, and the pepper spray license number of the purchaser;

(4) The date and time of transaction;

(5) Information as to whether the transaction was a sale, gift or other transaction; and

(6) Signed acknowledgement forms required, pursuant to subsection 41-37.4(c), of a purchaser or recipient of pepper spray.

(c) When displaying or storing pepper sprays at a designated place of business, the licensee shall display or store the pepper sprays at a location that is not within the reach of the general public and shall make a sale of pepper spray only upon request and only to an adult.

(d) The licensee or an adult employee of the licensee shall be present during all hours of operation of each designated place of business of the licensee; provided that if the pepper spray is in a locked cabinet inaccessible to minor employees, no adult employee need be present at the place of business.

(e) The licensee shall be responsible for the legal sale, distribution, and proper storage of any pepper spray under the licensee's control or at any one of the licensee's designated place of business.

(Added by Ord. 95-49; Am. Ord. 96-77)

Sec. 4137.6 Suspension or revocation of license.

If the department has probable cause to believe that a licensee has violated any provision of this article, the license may be suspended by the director of finance. If the licensee is not convicted, then the director of finance shall remove any suspension placed on the license. If the licensee is convicted, then the license shall be revoked by the director of finance. (Added by Ord. 95-49)

Sec. 4137.7 Forfeiture.

Any chemical device under the ownership of or found in the possession of or at the premises of a licensee may be subject to forfeiture to the city in accordance with the provisions of HRS Chapter 712A and if so forfeited, shall be destroyed or, if not destroyed, transferred to the chief of police for use by and under the control of the department. (Added by Ord. 95-49)

Sec. 4137.8 Rules.

The director of finance and the chief of police are authorized to adopt rules in accordance with HRS Chapter 91 necessary to administer and enforce the provisions of this article. (Added by Ord. 95-49)

Sec. 4137.9 Violation--Penalty.

Any person who violates any provision of this article shall, upon conviction, be punished by a fine not exceeding \$2,000.00 or by imprisonment not exceeding one year, or by both. In addition to the penalties assessed under this section, upon conviction of any licensee, any license issued under this article shall be suspended or revoked pursuant to the provisions of Section 41-37.6. Each separate prohibited transaction shall be a separate violation. (Added by Ord. 95-49)